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PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
169-PA-0103

First named inventor: Darrell J. Atwood

Application No.: 10/730,406

Art Unit: 3637

Filed: 12/08/2003

Examiner: Timothy Ayres

Title: Display Case with viewable packaging storage area

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Office Action (identify type of reply):

☒ has been filed previously on July 12, 2006.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 1000.00.

☐ has been paid previously on _____.
☒ is enclosed herewith.

0730406
1000.00 OP

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending on the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

09/03/2006 00000000 10730406

01 FC:2453

750.00 OP

09/21/2006 DERRY
01 FC:1999

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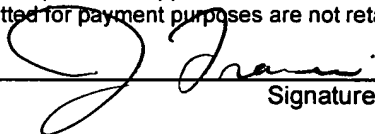
3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

August 23, 2006

Date

James M. Francis

Typed or printed name

52,909

Registration Number, if applicable

300 W Vine St, Ste 2100

Address

859-231-3902

Telephone Number

Lexington, KY 40507

Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

August 31, 2006

Date



Signature

James M. Francis

Typed or printed name of person signing certificate



Appl. No. 10/459,928

Affidavit to Support Revival of Unintentionally Abandoned Application – August 31, 2006

Reply to Abandonment of July 20, 2006

Appl. No. : 10/730,406
Applicant : Darrell J. Atwood
Filed : 12/08/2003
Title : DISPLAY CASE WITH VIEWABLE PACKAGING STORAGE AREA

TC/A.U. : 3637
Examiner : Timothy Ayres

Docket No. : 169-PA-0103

Honorable Commissioner for Patents
Washington DC 20231

AFFIDAVIT

In response to the Notice of Abandonment filed by the Examiner on July 20, 2006, the undersigned counsel herein requests that the underlying application be revived due to unintentional abandonment as per 37 CFR 1.137(b). The required petition and fees for revival and issuance are herein attached.

The applicant did not intend to abandon the application. A miscommunication between the filing attorney and myself, the prosecuting attorney, both from separate firms, resulted in unintentional delays. Additionally, and due to no fault of the applicant, I mistakenly believed that the time to respond by filing a petition for an extension of time had not yet expired. I am still relatively inexperienced and did not realize that Responses to Office Actions must be mailed within 6 months of the mailing date of the underlying Office Action. I mistakenly believed that filing the required Response with a petition for an extension of time of adequate duration was all that was required. I have now discovered that this is not the case. I am also paying the petition fee for revival out of personal funds since this is not the fault of the inventor.

The failure to file within 6 months of the mailing date of the underlying office action was not intentional. A reply to the office action was faxed to the Examiner on July 12, 2006, as is indicated by the record, along with a petition and fee for a four month extension of time.

Further affiant sayeth not,



James M. Francis

Registration No. 52,909

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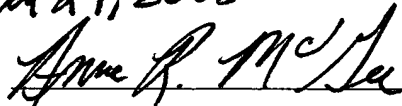
STATE OF KENTUCKY

COUNTY OF FAYETTE

Subscribed and sworn to before me by JAMES M. FRANCIS, Affiant, this 31st day of August, 2006.

My commission expires:

September 27, 2008



Notary Public, State-at-Large, Ky.